

**ZONING BOARD OF APPEALS**

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ZBA 2010-47
Petition of Patrick Delahunty
3 Windemere Road

Pursuant to due notice, the Special Permit Granting authority held a Public Hearing on Thursday, June 3, 2010 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of PATRICK DELAHUNTY requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 9.9 foot by 13.7 foot first floor addition, construction of a 2 foot by 10.8 foot first floor addition, and construction of a 26 foot by 42.2 foot second story addition with less than required front yard setbacks, at 3 WINDEMERE ROAD, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On May 17, 2010, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Patrick Delahunty (the "Petitioner"). He submitted letters of support, signed by neighbors, to the Board.

Mr. Delahunty said that the existing garage is too small for a modern car. He said that the plan is to leave the driveway where it is to park cars.

The Board said that a dimension for the proposed addition shown on the plot plan is 9.9 feet towards Linden Street. The Board said that dimension is shown as 10 feet 1 ½ inches on the architectural plans. The Board asked what effect the 10 foot 1 ½ inch dimension would have on the 29.6 foot setback from Linden Street. Mr. Delahunty said that the existing garage also has a 29.4 foot setback from Linden Street.

The Board said that it would hold approval of the project subject to the surveyor's line on the plot plan. The Board said that construction could come no closer than 29.6 to Linden Street at the front addition and no closer than 29.4 feet at the rear addition.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 3 Windemere Road, on a 10,385 square foot corner lot, with less than required front yard setbacks.

The Petitioner is requesting a Special Permit/Finding that construction of a 9.9 foot by 13.7 foot first floor addition, construction of a 2 foot by 10.8 foot first floor addition, and construction of a 26 foot by 42.2 foot second story addition with less than required front yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A plot plan dated 5/10/10, stamped by Clifford E. Rober, Professional Land Surveyor, existing and proposed floor plans and elevation drawings, dated 5/7/10, prepared by Babbitt Design, and photographs were submitted.

On June 2, 2010, the Planning Board reviewed the petition and recommended that the request be denied.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that although construction of a 9.9 foot by 13.7 foot first floor addition, construction of a 2 foot by 10.8 foot first floor addition, and construction of a 26 foot by 42.2 foot second story addition with less than required front yard setbacks is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted for construction of a 9.9 foot by 13.7 foot first floor addition, construction of a 2 foot by 10.8 foot first floor addition, and construction of a 26 foot by 42.2 foot second story addition, subject to the following conditions:

1. A revised plot plan or revised architectural plan shall be submitted that resolves the conflict between the two plans.
2. Construction shall come no closer than 29.6 to Linden Street at the front addition and no closer than 29.4 feet at the rear addition.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time-stamped on this decision.

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

Richard L. Seegel, Chairman

J. Randolph Becker

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm